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WQCD Permits Section

BEFORE THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT

DIVISION OF ADMINISTRATION

STATE OF COLORADO

RESPONSE TO NOTICE OF VIOLATION AND CEASE AND DESIST ORDER

IN THE MATTER OF: RICO DEVELOPMENT CORPORATION
 CDPS PERMIT O. CO-0029793
 DOLORES COUNTY, COLORADO

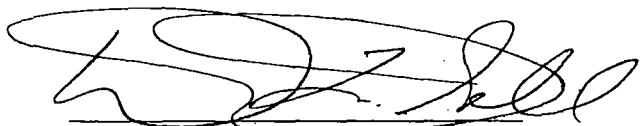
Rico Development Corporation hereby submits the following response to the Notice of Violation and Cease and Desist Order:

1. Rico Development Corporation (RDC) admits to the statements and allegations contained in paragraphs 1 through 32 of the Findings of Fact.
2. It is RDC's position that the effluent discharged from Outfall 002 is the result of interconnecting abandoned mine tunnels dating back to the 1800's, draining both patented and unpatented mining claims belonging to individual owners and the United States Government.
3. The effluent from Outfall 002 discharges 24 hours a day, 365 days a year with no apparent way to halt the flow of effluent. The mineral content of the effluent is a function of the erosion of naturally occurring rock and mineral from within the mountain and tunnel system. Rico Development Corporation is in no way responsible for or in control of the mineral content or the volume of effluent emitted from Outfall 002.
4. RDC owns and operates a water treatment plant for the treatment of the effluent from Outfall 002. This treatment plant is a lime shake system installed by the prior owners of the property, ARCO. RDC has and continues to operate the treatment plant at its maximum efficiency. However, it is apparent that this currently used plant technology is unable to treat the effluent to a level sufficient to meet the more stringent requirements of the latest permit issued by the Colorado Health Department. RDC has found no technology within its financial resources to replace the current system which would be able to handle the volume of effluent and reduce the mineral content to acceptable levels. RDC has been in discussions with ARCO in hopes of finding an acceptable solution. To this date no new system has been found. To RDC's knowledge ARCO has been in contact with the Colorado School of Mines with respect to establishing a program to help resolve the problem.

5. RDC has been unable to pass any of the proscribed WET tests with regard to the Ceriodaphnia. RDC has attempted to isolate the cause of the toxicity and has been unsuccessful. It is RDC's position and the opinion of others that this failure rate is due to a high level of dissolved carbon dioxide in the water due to naturally occurring conditions. The area of the settling ponds sits over a vast deposit of underground carbon dioxide. This gas leaks naturally through a series of fissures and bubbles up into the the ponds as well as the throughout the Rico area. This condition apparently creates water that is unable to pass the WET test as proscribed in the permit, and thus makes the demand for the conduct of the WET test unreasonable in this circumstance.

6. It is RDC's position that it is doing the best job it can under the circumstances to comply with the permit requirements. However, it feels that the limits set forth in the latest permit are not attainable with the current water treatment plant. RDC is making strides to work with ARCO and the Colorado School of Mines to find a permanent solution. These efforts are all RDC is capable of at this time, and they will continue to work toward maintaining compliance to the best of its abilities.

Submitted this 26th day of February, 1996.

A handwritten signature in dark ink, appearing to read 'David L. Sell', is written over a horizontal line.

David L. Sell
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